



4. Defendant Bluestem Brands, Inc. d/b/a Fingerhut (“Bluestem”), is a Delaware business entity with an address of 7075 Flying Cloud Drive, Eden Prairie, Minnesota 55344, and is a “person” as defined by 47 U.S.C. § 153(39).

### **FACTS**

5. In 2016, Bluestem began calling Plaintiff’s cellular telephone, number 586-xxx-9486, using an automatic telephone dialing system (“ATDS” or “predictive dialer”) and/or using an artificial or prerecorded voice.

6. When Plaintiff answered calls from Bluestem, she heard a prerecorded message.

7. On or about January 10, 2017, Plaintiff requested that all calls to her cease immediately.

8. Nevertheless, Bluestem continued to place automated calls to Plaintiff’s cellular telephone number.

### **COUNT I** **VIOLATIONS OF THE TCPA – 47 U.S.C. § 227, ET SEQ.**

9. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

10. At all times mentioned herein, Defendant called Plaintiff’s cellular telephone number using an ATDS or predictive dialer and/or using a prerecorded or artificial voice.

11. Defendant continued to place automated calls to Plaintiff's cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

12. The telephone number called by Defendant was and is assigned to a cellular telephone serviced by Metro PCS for which Plaintiff incurs charges pursuant to 47 U.S.C. § 227(b)(1).

13. Plaintiff was annoyed, harassed and inconvenienced by Defendant's continued calls.

14. The calls from Defendant to Plaintiff were not placed for "emergency purposes" as defined by 47 U.S.C. § 227(b)(1)(A)(i).

15. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call placed in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

16. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that judgment be entered against Defendant:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);

- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
- C. Such other and further relief as may be just and proper.

**TRIAL BY JURY DEMANDED ON ALL COUNTS**

Dated: February 1, 2018

Respectfully submitted,

By: /s/ Sergei Lemberg, Esq.  
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